APPROVED JURISDICTIONAL DETERMINATION FORM U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SE	CTION I: BACKGROUND INFORMATION REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): July 2007
В.	DISTRICT OFFICE, FILE NAME, AND NUMBER:NY District, PSE&G, NAN-2007-1592-WCA, Wetland A
C.	PROJECT LOCATION AND BACKGROUND INFORMATION: , State:NJ County/parish/borough: Hudson City: Jersey City Center coordinates of site (lat/long in degree decimal format): Lat. 40.74° N. Long74. 07° E. Universal Transverse Mercator: Name of nearest waterbody: Hackensack River Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Hackensack River Name of watershed or Hydrologic Unit Code (HUC): Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request. Check if other sites (e.g., offsite mitigation sites, disposal sites, etc) are associated with this action and are recorded on a different JD form.
D,	REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY): Office (Desk) Determination. Date: December 18, 2007 Field Determination. Date(s):
	CTION II: SUMMARY OF FINDINGS RHA SECTION 10 DETERMINATION OF JURISDICTION.
The revi	re Pick List "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the ew area. [Required] Waters subject to the ebb and flow of the tide. Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain:
В. (CWA SECTION 404 DETERMINATION OF JURISDICTION.
Γhe	re Are no "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]
	1. Waters of the U.S. a. Indicate presence of waters of U.S. in review area (check all that apply): TNWs, including territorial seas Wetlands adjacent to TNWs Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs Non-RPWs that flow directly or indirectly into TNWs Wetlands directly abutting RPWs that flow directly or indirectly into TNWs Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs Impoundments of jurisdictional waters Isolated (interstate or intrastate) waters, including isolated wetlands
	b. Identify (estimate) size of waters of the U.S. in the review area: Non-wetland waters: linear feet: width (ft) and/or acres. Wetlands: acres.
	c. Limits (boundaries) of jurisdiction based on: Pick List Elevation of established OHWM (if known):

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: The 2.51-acre wetland present on-site was determined not to be jurisdictional because it was isolated. This wetland area is located approximately 500 linear feet landward of the existing Hackensack River bulkhead. Although

^{2.} Non-regulated waters/wetlands (check if applicable):3

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

Supporting documentation is presented in Section III.F.

this wetland extends off site and to the north, the presence of active elevated railroad tracks and higher topography to the east prevents surface water from flowing off site. No hydrologic connection to any waters of the U.S. are present on site or off site to the north or east. This area appears to be a depression that has developed on top of former construction staging areas and former building locations. The nearest water body is a second isolated wetland found on the project site. The wetland under review is not present on the NWI and USGS maps for this area. Therefore, the wetland was determined to be isolated.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section HLA.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW:

Summarize rationale supporting determination:

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent":

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under Rapanos have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size:

Pick List

Drainage area:

Pick List

Average annual rainfall:

inches

Average annual snowfall:

inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through Pick List tributaries before entering TNW.

Project waters are Pick List river miles from TNW.

Project waters are **Pick List** river miles from RPW.

Project waters are Pick List aerial (straight) miles from TNW.

Project waters are **Pick List** aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW5:

Tributary stream order, if known:

⁴ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

(0)	Tributary is: Natural Artificial (man-made). Explain: Manipulated (man-altered). Explain:
•	Tributary properties with respect to top of bank (estimate): Average width: feet Average depth: feet Average side slopes: Pick List.
	Primary tributary substrate composition (check all that apply): Silts Sands Concrete Cobbles Gravel Muck Bedrock Vegetation. Type/% cover: Other. Explain:
	Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Presence of run/riffle/pool complexes. Explain: Tributary geometry: Pick List Tributary gradient (approximate average slope): %
(c)	Flow: Tributary provides for: Pick List Estimate average number of flow events in review area/year: Pick List Describe flow regime: Other information on duration and volume:
	Surface flow is: Pick List. Characteristics:
-	Subsurface flow: Pick List. Explain findings: Dye (or other) test performed:
	Tributary has (check all that apply): Bed and banks OHWM ⁶ (check all indicators that apply): clear, natural line impressed on the bank changes in the character of soil shelving vegetation matted down, bent, or absent leaf litter disturbed or washed away sediment deposition water staining other (list): He presence of litter and debris destruction of terrestrial vegetation the presence of wrack line sediment sorting sediment sorting multiple observed or predicted flow events abrupt change in plant community
	☐ Discontinuous OHWM. ⁷ Explain: .
	If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply): High Tide Line indicated by: Oil or scum line along shore objects In fine shell or debris deposits (foreshore) Physical markings; Physical markings/characteristics I tidal gauges Other (list): Mean High Water Mark indicated by: Survey to available datum; Physical markings; vegetation lines/changes in vegetation types.
Char	mical Characteristics: acterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.). Explain: tify specific pollutants, if known:

(iii)

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

Third.

(iv		Riparian corridor. Characteristics (type, average width): Wetland fringe. Characteristics: Habitat for: Pederally Listed species. Explain findings: Fish/spawn areas. Explain findings: Other environmentally-sensitive species. Explain findings:
Ch	arac	Aquatic/wildlife diversity. Explain findings: teristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW
(i)	Ph	ysical Characteristics:
` .		General Wetland Characteristics:
		Properties:
		Wetland size: acres
		Wetland type. Explain: Wetland quality. Explain:
		Project wetlands cross or serve as state boundaries. Explain:
		To jour world do 5005 of 35170 as state boardanes. Explain.
	(b)	General Flow Relationship with Non-TNW:
		Flow is: Pick List. Explain:
		Surface flow is: Pick List
		Characteristics:
		1000 W da we
		Subsurface flow: Pick List. Explain findings:
		☐ Dye (or other) test performed:
	(c)	Wetland Adjacency Determination with Non-TNW:
	` '	☐ Directly abutting
		Not directly abutting
		Discrete wetland hydrologic connection. Explain:
		Ecological connection. Explain:
		Separated by berm/barrier. Explain:
	(d)	Proximity (Relationship) to TNW
	. ,	Project wetlands are Pick List river miles from TNW.
		Project waters are Pick List aerial (straight) miles from TNW.
		Flow is from: Pick List.
		Estimate approximate location of wetland as within the Pick List floodplain.
ζii)	Che	mical Characteristics:
(11)		racterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed
		characteristics; etc.). Explain:
	Iden	tify specific pollutants, if known:
×1444	D 1	
(111)	L.J.	ogical Characteristics. Wetland supports (check all that apply): Riparian buffer. Characteristics (type, average width):
	H	Vegetation type/percent cover. Explain:
	Ħ	Habitat for:
		Federally Listed species. Explain findings:
		Fish/spawn areas. Explain findings:
		Other environmentally-sensitive species. Explain findings:
		Aquatic/wildlife diversity. Explain findings:
Cha	racte	eristics of all wetlands adjacent to the tributary (if any)
~ 11 ed	All	wetland(s) being considered in the cumulative analysis: Pick List
		roximately () acres in total are being considered in the cumulative analysis.

2.

3.

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the Rapanos Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

- 1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
- Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into
 TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its
 adjacent wetlands, then go to Section III.D:
- 3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D.	DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL
	THAT APPLY):

1.	TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area: TNWs: linear feet width (ft), Or, acres. Wetlands adjacent to TNWs: acres.
2.	RPWs that flow directly or indirectly into TNWs. Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
	Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally.

	Provide estimates for jurisdictional waters in the review area (check all that apply): Tributary waters: linear feet width (ft).
	Other non-wetland waters: acres. Identify type(s) of waters: .
3.	Non-RPWs ⁸ that flow directly or indirectly into TNWs. Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.
	Provide estimates for jurisdictional waters within the review area (check all that apply): Tributary waters: linear feet width (ft). Other non-wetland waters: acres. Identify type(s) of waters:
4.	Wetlands directly abutting an RPW that flow directly or indirectly into TNWs. Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands. Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:
	Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary i seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:
	Provide acreage estimates for jurisdictional wetlands in the review area: acres.
5.	Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs. Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.
	Provide acreage estimates for jurisdictional wetlands in the review area: acres.
6.	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs. Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.
	Provide estimates for jurisdictional wetlands in the review area: acres.
7.	As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional. Demonstrate that impoundment was created from "waters of the U.S.," or Demonstrate that water meets the criteria for one of the categories presented above (1-6), or Demonstrate that water is isolated with a nexus to commerce (see E below).
	DLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, GRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY CH WATERS (CHECK ALL THAT APPLY): 10 which are or could be used by interstate or foreign travelers for recreational or other purposes. from which fish or shellfish are or could be taken and sold in interstate or foreign commerce. which are or could be used for industrial purposes by industries in interstate commerce. Interstate isolated waters. Explain: Other factors. Explain:
Ide	ntify water body and summarize rationale supporting determination;

E.

See Footnote # 3.
 To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
 Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

	靈	Tributary waters: linear feet width (sometime of the control of th		all that apply):	,		
Alteas the bui pre	vas is hought prefilding	Other: (explain, if not covered above): The 2.5; solated. This wetland area is located approximgh this wetland extends off site and to the north events surface water from flowing off site. No lift or east. This area appears to be a depression glocations. The nearest water body is a second on the NWI and USGS maps for this area. The	eview area, these e Regional Suppl ubstantial nexus to ion in "SWANCO andard, where such actely 500 linears, the presence on ydrologic connects that has devertisolated wetland erefore, the wet	areas did not me ements, o interstate (or fo c," the review area h a finding is req- present on-site we feet landward of f active elevated ection to any wall loped on top of f d found on the p land was determ	et the criteria in the reign) commerce, a would have been ruired for jurisdiction as determined not the existing Hackerailroad tracks and ers of the U.S. are primer construction roject site. The we ined to be isolated.	egulated based solely on Explain: to be jurisdictional be ensack River bulkhead higher topography to present on site or offer staging areas and for etland under review is There are no feature:	cause d. to the site to rmer a not s
she ind	llfish uustr	are or could be used by interstate or foreign tra in can be or are taken and sold in interstate or for tries in interstate commerce. Consequently, the degradation or loss of this wetland will not aff	oreign commerc ere does not app	e, and which are ear to be a reaso	or could be used f nable nexus with in	or industrial purpose iterstate commerce.	bv
	fact judg	Lakes/ponds: acres.	ers in the review endangered spec- linear feet e of aquatic resou	width (ft).	<u>le</u> potential basis of for irrigated agricult	jurisdiction is the MBI ture), using best profess	R sional
	a fin	Lakes/ponds: acres.	ers in the review apply): linear feet, e of aquatic reso	width (ft).	eet the "Significant	Nexus'' standard, wher	e such
SEC	CTIO	ON IV: DATA SOURCES.					
۸.	and ⊠	PORTING DATA. Data reviewed for JD (check requested, appropriately reference sources below Maps, plans, plots or plat submitted by or on behalf or Data sheets prepared/submitted by or on behalf or Office concurs with data sheets/delineation reference.): nalf of the applica of the applicant/c	ant/consultant:TR		case file and, where che	cked
		Office does not concur with data sheets/delin Data sheets prepared by the Corps: Corps navigable waters' study: U.S. Geological Survey Hydrologic Atlas: USGS NHD data.					,
		USGS 8 and 12 digit HUC maps. U.S. Geological Survey map(s). Cite scale & qua USDA Natural Resources Conservation Service National wetlands inventory map(s). Cite name: State/Local wetland inventory map(s): FEMA/FIRM maps:	Soil Survey. Cita	ition:	9)		

	Previous determination(s). File no. and date of response letter:
	Applicable/supporting case law:
	Applicable/supporting scientific literature:
\boxtimes	Other information (please specify):Google Earth.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

APPROVED JURISDICTIONAL DETERMINATION FORM U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SEG A.	CTION I: BACKGROUND INFORMATION REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): July 2007
В.	DISTRICT OFFICE, FILE NAME, AND NUMBER:NY District, PSE&G, NAN-2007-1592-WCA, Wetland B
C.	PROJECT LOCATION AND BACKGROUND INFORMATION: , State:NJ County/parish/borough: Hudson City: Jersey City Center coordinates of site (lat/long in degree decimal format): Lat. 40.74° N, Long74. 07° E. Universal Transverse Mercator: Name of nearest waterbody: Hackensack River Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Hackensack River Name of watershed or Hydrologic Unit Code (HUC): Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request. Check if other sites (e.g., offsite mitigation sites, disposal sites, etc) are associated with this action and are recorded on a different JD form.
D.	REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY): Office (Desk) Determination. Date: December 18, 2007 Field Determination. Date(s):
	CTION II: SUMMARY OF FINDINGS RHA SECTION 10 DETERMINATION OF JURISDICTION.
Ther	re Pick List "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the ew area. [Required] Waters subject to the ebb and flow of the tide. Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain:
	CWA SECTION 404 DETERMINATION OF JURISDICTION.
Ther	e Are no "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]
	1. Waters of the U.S. a. Indicate presence of waters of U.S. in review area (check all that apply): TNWs, including territorial seas Wetlands adjacent to TNWs Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs Non-RPWs that flow directly or indirectly into TNWs Wetlands directly abutting RPWs that flow directly or indirectly into TNWs Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs Impoundments of jurisdictional waters Isolated (interstate or intrastate) waters, including isolated wetlands
	b. Identify (estimate) size of waters of the U.S. in the review area: Non-wetland waters: linear feet: width (ft) and/or acres. Wetlands: acres.
	c. Limits (boundaries) of jurisdiction based on: Pick List

Elevation of established OHWM (if known):

2. Non-regulated waters/wetlands (check if applicable):3

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: The 0.6-acre wetland present on-site was determined not to be jurisdictional because it was isolated. This wetland area is located approximately 500 linear feet landward of the existing Hackensack River bulkhead. No

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

3 Supporting documentation is presented in Section III.F.

hydrologic connection to any waters of the U.S. are present due to the higher topography that surrounds the wetland. This area appears to be a depression that has developed on top of former construction staging areas and former building locations. The nearest water body is a second isolated wetland found on the project site. The wetland under review is not present on the NWI and USGS maps for this area. Therefore, the wetland was determined to be isolated.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

I. TNW

Identify TNW:

Summarize rationale supporting determination:

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent":

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: Pick List
Drainage area: Pick List
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

Tributary flows through Pick List tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW. Project waters are **Pick List** river miles from RPW.

Project waters are Pick List aerial (straight) miles from TNW.

Project waters are Pick List aerial (straight) miles from RPW.

Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW5:

Tributary stream order, if known:

A Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

	(b)	Tributary is: Natural Artificial (man-made). Explain: Manipulated (man-altered). Explain:
		Tributary properties with respect to top of bank (estimate): Average width: feet Average depth: feet Average side slopes: Pick List.
		Primary tributary substrate composition (check all that apply): Silts Sands Concrete Cobbles Gravel Muck Bedrock Vegetation. Type/% cover: Other. Explain:
٠		Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Presence of run/riffle/pool complexes. Explain: Tributary geometry: Pick List Tributary gradient (approximate average slope): %
	(c)	Flow: Tributary provides for: Pick List Estimate average number of flow events in review area/year: Pick List Describe flow regime: Other information on duration and volume:
		Surface flow is: Pick List. Characteristics:
		Subsurface flow: Pick List. Explain findings: Dye (or other) test performed:
		Tributary has (check all that apply): Bed and banks OHWM ⁶ (check all indicators that apply): clear, natural line impressed on the bank changes in the character of soil shelving vegetation matted down, bent, or absent leaf litter disturbed or washed away sediment deposition water staining other (list): Discontinuous OHWM. ⁷ Explain:
		If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply): High Tide Line indicated by: Oil or scum line along shore objects In fine shell or debris deposits (foreshore) Physical markings/characteristics Ditidal gauges Other (list): Mean High Water Mark indicated by: Survey to available datum; Diphysical markings; Vegetation lines/changes in vegetation types.
(iii)	Char	mical Characteristics: racterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.) Explain: tify specific pollutants, if known:

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷Ibid.

		ological Characteristics. Channel supports (check all that apply): Riparian corridor. Characteristics (type, average width): Wetland fringe. Characteristics: Habitat for: Federally Listed species. Explain findings: Fish/spawn areas. Explain findings: Other environmentally-sensitive species. Explain findings: Aquatic/wildlife diversity. Explain findings:
2.	Charac	teristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW
		ysical Characteristics: General Wetland Characteristics: Properties: Wetland size: acres Wetland type. Explain: Wetland quality. Explain: Project wetlands cross or serve as state boundaries. Explain:
	(b)	General Flow Relationship with Non-TNW: Flow is: Pick List. Explain:
		Surface flow is: Pick List Characteristics:
		Subsurface flow: Pick List. Explain findings: Dye (or other) test performed:
		Wetland Adjacency Determination with Non-TNW: ☐ Directly abutting ☐ Not directly abutting ☐ Discrete wetland hydrologic connection. Explain: ☐ Ecological connection. Explain: ☐ Separated by berm/barrier. Explain:
	(d)	Proximity (Relationship) to TNW Project wetlands are Pick List river miles from TNW. Project waters are Pick List aerial (straight) miles from TNW. Flow is from: Pick List. Estimate approximate location of wetland as within the Pick List floodplain.
	Cha	emical Characteristics: uracterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: ntify specific pollutants, if known:
	(iii) Bio	Riparian buffer. Characteristics (type, average width): Vegetation type/percent cover. Explain: Habitat for: Federally Listed species. Explain findings: Fish/spawn areas. Explain findings: Other environmentally-sensitive species. Explain findings: Aquatic/wildlife diversity. Explain findings:
3.	All	eristics of all wetlands adjacent to the tributary (if any) wetland(s) being considered in the cumulative analysis: Pick List proximately () acres in total are being considered in the cumulative analysis.

3.

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the Rapanos Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

- 1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
- Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
- 3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D.	DETERMINATIONS OF JURISDICTIONAL FINDINGS.	. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL
	THAT APPLY):	,

1.	TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area: TNWs: linear feet width (ft), Or, acres. Wetlands adjacent to TNWs: acres.
2.	RPWs that flow directly or indirectly into TNWs. ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally.

	Provide estimates for jurisdictional waters in the review area (check all that apply): Tributary waters: linear feet width (ft).
	Other non-wetland waters: acres. Identify type(s) of waters: .
	A Africa - manage
3.	
	Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a
	TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.
	Provide actimates for invindintional unters within the socious and (1) to 11 d. (1)
	Provide estimates for jurisdictional waters within the review area (check all that apply): Tributary waters: linear feet width (ft).
	Other non-wetland waters: acres.
	Identify type(s) of waters:
A	Westlands directly about in an DDW d. 4 Feet Providence of the contract
4.	Wetlands directly abutting an RPW that flow directly or indirectly into TNWs. Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
	Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale
	indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is
	directly abutting an RPW:
	Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary i
	seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:
	abuting an KI W.
	Provide acreage estimates for jurisdictional wetlands in the review area: acres.
_	TET (A. Y. 1) (1.2 () YE (II.) (A. Y.)
5.	Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.
	Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent
	and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.
	constance is provided at decirculative.
	Provide acreage estimates for jurisdictional wetlands in the review area: acres.
6.	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.
٠.	Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and
	with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this
	conclusion is provided at Section III.C.
	Provide estimates for jurisdictional wetlands in the review area: acres.
7.	Impoundments of jurisdictional waters.9
•	As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
	Demonstrate that impoundment was created from "waters of the U.S.," or
	Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
	Demonstrate that water is isolated with a nexus to commerce (see E below).
iso	PLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE,
DE	GRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY
SUC	CH WATERS (CHECK ALL THAT APPLY): 10
	which are or could be used by interstate or foreign travelers for recreational or other purposes.
	from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
딝	which are or could be used for industrial purposes by industries in interstate commerce.
	Interstate isolated waters. Explain: Other factors. Explain:
	Other factors. Explaint,
Ider	ntify water body and summarize rationale supporting determination:

Ē.

⁸See Footnote # 3.

⁹ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

¹⁰ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

	Tributary waters: linear feet width (ft). Other non-wetland waters: acres.
	Identify type(s) of waters: .
	Wetlands: acres.
	NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY): If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements. Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce. Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR). Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: Other: (explain, if not covered above): The 0.6-acre wetland present on-site was determined not to be jurisdictional because it
was i	solated. This wetland area is located approximately 500 linear feet landward of the existing Hackensack River bulk head. No
hydrappe: neare USG: by in taken	ologic connection to any waters of the U.S. are present due to the higher topography that surrounds the wetland. This area ars to be a depression that has developed on top of former construction staging areas and former building locations. The est water body is a second isolated wetland found on the project site. The wetland under review is not present on the NWI and S maps for this area. Therefore, the wetland was determined to be isolated. There are no features which are or could be used terstate or foreign travelers for recreational or other pruposes, there are no areas from which fish or shellfish can be or are a and sold in interstate or foreign commerce, and which are or could be used for industrial purpose by induustries in interstate merce. Consequently, there does not appear to be a reasonable nexus with interstate commerce. Also, the use, degradation or of this wetland will not affect other waters of the U.S. or affect interstate or foreign commerce.
Í	Provide acreage estimates for non-jurisdictional waters in the review area, where the <u>sole</u> potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional udgment (check all that apply):
[Non-wetland waters (i.e., rivers, streams): linear feet width (ft). Lakes/ponds: acres.
L	Other non-wetland waters: acres. List type of aquatic resource: Wetlands: acres.
a [[Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply): Non-wetland waters (i.e., rivers, streams): linear feet, width (ft). Lakes/ponds: acres. Other non-wetland waters: acres. List type of aquatic resource: Wetlands: acres.
SECT	TON IV: DATA SOURCES.
a	USDA Natural Resources Conservation Service Soil Survey. Citation:
	Previous determination(s). File no. and date of response letter:

1,20	Applicable/supporting case law: .
	Applicable/supporting scientific literature:
\boxtimes	Other information (please specify):Google Earth.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

APPROVED JURISDICTIONAL DETERMINATION FORM U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SEC A.	TION I: BACKGROUND INFORMATION REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): July 2007
	DISTRICT OFFICE, FILE NAME, AND NUMBER: NY District, PSE&G, NAN-2007-1592-WCA, Wetland C
To the second	PROJECT LOCATION AND BACKGROUND INFORMATION: , State:NJ County/parish/borough: Hudson City: Jersey City Center coordinates of site (lat/long in degree decimal format): Lat. 40.74° N, Long74. 07° E. Universal Transverse Mercator: Name of nearest waterbody: Hackensack River Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Hackensack River Name of watershed or Hydrologic Unit Code (HUC): Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request. Check if other sites (e.g., offsite mitigation sites, disposal sites, etc) are associated with this action and are recorded on a different JD form.
Ŀ	REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY): Office (Desk) Determination. Date: December 18, 2007 Field Determination. Date(s):
SECT A. RI	TON II: SUMMARY OF FINDINGS AA SECTION 10 DETERMINATION OF JURISDICTION.
	Pick List "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the area. [Required] Waters subject to the ebb and flow of the tide. Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain: WA SECTION 404 DETERMINATION OF JURISDICTION.
	Are no "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]
	Waters of the U.S. a. Indicate presence of waters of U.S. in review area (check all that apply): TNWs, including territorial seas Wetlands adjacent to TNWs Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs Non-RPWs that flow directly into TNWs Wetlands directly abutting RPWs that flow directly or indirectly into TNWs Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs Impoundments of jurisdictional waters Isolated (interstate or intrastate) waters, including isolated wetlands
	b. Identify (estimate) size of waters of the U.S. in the review area: Non-wetland waters: linear feet: width (ft) and/or acres. Wetlands: acres.
•	c. Limits (boundaries) of jurisdiction based on: Pick List Elevation of established OHWM (if known):
2.	Non-regulated waters/wetlands (check if applicable): Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: The 1.1-acre wetland present on-site was determined not to be jurisdictional because it was isolated. This wetland area is located approximately 500 linear feet landward of the existing Hackensack River bulkhead. No

Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

Supporting documentation is presented in Section III.F.

hydrologic connection to any waters of the U.S. are present due to the higher topography that surrounds the wetland. This area appears to be a depression that has developed on top of former construction staging areas and former building locations. The nearest water body is a second isolated wetland found on the project site. The wetland under review is not present on the NWI and USGS maps for this area. Therefore, the wetland was determined to be isolated.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW:

Summarize rationale supporting determination:

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent":

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under Rapanos have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

General Area Conditions:

Watershed size: Pick List Drainage area: Pick List Average annual rainfall: inches Average annual snowfall: inches (ii) Physical Characteristics: Relationship with TNW: Tributary flows directly into TNW. Tributary flows through **PickList** tributaries before entering TNW. Project waters are Pick List river miles from TNW, Project waters are Pick List river miles from RPW. Project waters are Pick List aerial (straight) miles from TNW. Project waters are Pick List aerial (straight) miles from RPW. Project waters cross or serve as state boundaries. Explain: Identify flow route to TNW⁵:

Tributary stream order, if known:

^{*} Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

(D)	General Intuitary Characteristics (check all that apply): Tributary is: Natural
	Artificial (man-made). Explain:
	Manipulated (man-altered). Explain:
	Tributary properties with respect to top of bank (estimate): Average width: feet Average depth: feet Average side slopes: Pick List. Primary tributary substrate composition (check all that apply): Silts Sands
	☐ Sitts ☐ Sands ☐ Concrete ☐ Cobbles ☐ Gravel ☐ Muck ☐ Bedrock ☐ Vegetation. Type/% cover: ☐ Other. Explain:
	Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Presence of run/riffle/pool complexes. Explain: Tributary geometry: Pick List Tributary gradient (approximate average slope): %
(c)	Flow: Tributary provides for: Pick List Estimate average number of flow events in review area/year: Pick List Describe flow regime: Other information on duration and volume:
	Surface flow is: Pick List. Characteristics:
	Subsurface flow: Pick List. Explain findings: Dye (or other) test performed:
	Tributary has (check all that apply): Bed and banks OHWM ⁶ (check all indicators that apply): clear, natural line impressed on the bank changes in the character of soil destruction of terrestrial vegetation the presence of wrack line sediment sorting sediment sorting sediment deposition attended away sediment deposition attended away other (list): Discontinuous OHWM. ⁷ Explain:
	If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
	High Tide Line indicated by: oil or scum line along shore objects survey to available datum; physical markings/characteristics physical markings/characteristics vegetation lines/changes in vegetation types. other (list):
Chara I	nical Characteristics: acterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.) Explain: ify specific pollutants, if known:

(iii)

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

Third.

(iv) Bid	Riparian corridor. Characteristics (type, average width): Wetland fringe. Characteristics: Habitat for: Federally Listed species. Explain findings: Fish/spawn areas. Explain findings: Other environmentally-sensitive species. Explain findings: Aquatic/wildlife diversity. Explain findings:
Charact	teristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW
	ysical Characteristics: General Wetland Characteristics: Properties: Wetland size: acres
	Wetland type. Explain: Wetland quality. Explain: Project wetlands cross or serve as state boundaries. Explain:
(b)	General Flow Relationship with Non-TNW: Flow is: Pick List. Explain:
	Surface flow is: Pick List Characteristics:
	Subsurface flow: Pick List. Explain findings: Dye (or other) test performed:
(c)	Wetland Adjacency Determination with Non-TNW: ☐ Directly abutting ☐ Not directly abutting ☐ Discrete wetland hydrologic connection. Explain: ☐ Ecological connection. Explain: ☐ Separated by berm/barrier. Explain:
	Proximity (Relationship) to TNW Project wetlands are Pick List river miles from TNW. Project waters are Pick List aerial (straight) miles from TNW. Flow is from: Pick List. Estimate approximate location of wetland as within the Pick List floodplain.
Char	mical Characteristics: acterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: tify specific pollutants, if known:
	ogical Characteristics. Wetland supports (check all that apply): Riparian buffer. Characteristics (type, average width): Vegetation type/percent cover. Explain: Habitat for: Federally Listed species. Explain findings: Fish/spawn areas. Explain findings: Other environmentally-sensitive species. Explain findings: Aquatic/wildlife diversity. Explain findings:
All w	ristics of all wetlands adjacent to the tributary (if any) retland(s) being considered in the cumulative analysis: Pick List oximately () acres in total are being considered in the cumulative analysis.

3.

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the Rapanos Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

- 1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
- 2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
- 3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D.	DETERMINATIONS OF JURISDICTIONAL FINDINGS.	THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL
	THAT APPLY):	THE CHIEF ALL

i.	TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area: TNWs: linear feet width (ft), Or, acres. Wetlands adjacent to TNWs: acres.
2.	RPWs that flow directly or indirectly into TNWs. Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

	Provide estimates for jurisdictional waters in the review area (check all that apply): Tributary waters: linear feet width (ft), Other non-wetland waters: acres. Identify type(s) of waters:
3.	Non-RPWs ⁸ that flow directly or indirectly into TNWs. Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.
	Provide estimates for jurisdictional waters within the review area (check all that apply): Tributary waters: linear feet width (ft). Other non-wetland waters: acres. Identify type(s) of waters:
4.	Wetlands directly abutting an RPW that flow directly or indirectly into TNWs. Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands. Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:
	Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:
	Provide acreage estimates for jurisdictional wetlands in the review area: acres.
5.	Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs. Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.
	Provide acreage estimates for jurisdictional wetlands in the review area: acres.
6.	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs. Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.
	Provide estimates for jurisdictional wetlands in the review area: acres.
7.	As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional. Demonstrate that impoundment was created from "waters of the U.S.," or Demonstrate that water meets the criteria for one of the categories presented above (1-6), or Demonstrate that water is isolated with a nexus to commerce (see E below).
	ELATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, GRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY CH WATERS (CHECK ALL THAT APPLY): 10 which are or could be used by interstate or foreign travelers for recreational or other purposes. from which fish or shellfish are or could be taken and sold in interstate or foreign commerce. which are or could be used for industrial purposes by industries in interstate commerce. Interstate isolated waters. Explain: Other factors. Explain:
Iden	itify water body and summarize rationale supporting determination:

E.

See Footnote # 3.
To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

Oth	butany material linear		ea (check all that	are of the	
	butary waters: linear non-wetland waters:	feet width (ft).			
	Identify type(s) of waters:	deres.			
i We	tlands: acres.	•			•

We X	potential wetlands were assetland Delineation Manual : view area included isolated Prior to the Jan 2001 Sup "Migratory Bird Rule" (N	essed within the review and/or appropriate Region waters with no substant oreme Court decision in MBR).	area, these areas onal Supplements ial nexus to inter "SWANCC," the	state (or foreign) commerce. review area would have been	e 1987 Corps of Engineers regulated based solely on the
☐ Wa	aters do not meet the "Signi	ficant Nexus" standard,	where such a fin	ding is required for jurisdiction	on Explain:
	der: (explain, it not covered	above). Thel.i-acre w	efland present o	n-cite was determined not i	n his landadisking at the control of
was isolateu,	. This welland area is loca	ateu addroximateiv 501	i linear teef ian <i>i</i>	ward of the existing Hacks	nearly Divon built-band NI.
appears to be nearest wate USGS maps by interstate taken and so commerce. (e a depression that has de or body is a second isolated for this area. Therefore, or foreign travelers for re- ld in interstate or foreign	the U.S. are present of veloped on top of form diversional on the the wetland was determented for their processional or other procommerce, and which not appear to be a reas	tue to the higher er construction project site. The nined to be isolated uposes, there are are or could be	topography that surrounds staging areas and former be se wetland under review is a ted. There are no features e no areas from which fish of used for industrial purpose the interstate commerce.	s the wetland. This area uilding locations. The not present on the NWI and which are or could be used or shellfish can be or are
Provide:	acreage estimates for non-ju	urisdictional waters in th	ne review area. w	here the sole potential basis o	flurisdiction is the MDB
taciois (i	i.e., presence of migratory r	oirds, presence of endan	gered species, us	of water for irrigated agricu	Iture), using best professional
langueu.	it (check an that apply);		•		rearry, using best professional
	n-wetland waters (i.e., river	s, streams): linear	feet width	(ft).	
	es/ponds: acres. er non-wetland waters:	T			
	tlands: acres.	acres. List type of aqu	iatic resource:	•	
Provide a	is required for jurisdiction	(check an mat apply):	e review area tha	t do not meet the "Significant	Nexus" standard, where such
Non Lake	n-wetland waters (i.e., rivers es/ponds: acres. er non-wetland waters: lands: acres.	acres. List type of aq	feet, width	(ft).	
Non Lake	es/ponds: acres. er non-wetland waters: lands: acres.		,	(ft).	
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	Applicable/supporting case law: .
	Applicable/supporting scientific literature:
\boxtimes	Other information (please specify):Google Earth.

B. ADDITIONAL COMMENTS TO SUPPORT JD: